

## Yackulic, Ted

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**From:** Justin D. Leonard <jleonard@ml-llp.com>  
**Sent:** Thursday, January 30, 2014 9:19 AM  
**To:** Feldman, Stephen (Perkins Coie)  
**Cc:** Frederick.Phillips@USDOJ.GOV; Yackulic, Ted  
**Subject:** Re: Absorbent Technologies

I understand the concern, but because this is so unlikely and because it is going to create significant friction, I recommend that we not deal with that now. Everyone will have an interest in resolving the issue -- the EPA will want the voluntary payment of funds and the other parties will want a release of the much larger potential claim. It's no skin off our back if you guys want to deal with this now, but it will definitely delay and/or prevent the documentation of the settlement -- which I understand we need to get done today.

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### **Justin D. Leonard**

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On Thu, Jan 30, 2014 at 9:14 AM, Feldman, Stephen (Perkins Coie) <[SFeldman@perkinscoie.com](mailto:SFeldman@perkinscoie.com)> wrote:

I am fine with that approach, but I would add that if the \$115k ultimately cannot be funded by the estate for some reason, then it would become the obligation of the Ferry Street landlord to fund it. Presumably, if there is some issue with the funds going directly from the estate into the escrow account, those funds will end up going to the Ferry Street landlord because, according to Justin, the Ferry Street landlord has the only viable Chapter 7 claims once the Chapter 7 claims of EPA and the Queen Avenue landlord have been released.

Alternatively, I would be fine with releasing the \$135k to EPA and EPA, in turn, providing a full liability release (and contribution protection) as to *only* the Queen Avenue landlord.

Stephen

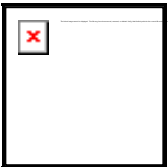
**From:** Justin D. Leonard [mailto:[jleonard@ml-llp.com](mailto:jleonard@ml-llp.com)]  
**Sent:** Thursday, January 30, 2014 8:59 AM  
**To:** Phillips, Frederick (ENRD)  
**Cc:** Feldman, Stephen (Perkins Coie); [yackulic.ted@epa.gov](mailto:yackulic.ted@epa.gov)  
**Subject:** Re: Absorbent Technologies

On that note, I suggest -- like with the escrow agreement -- we simply provide that the parties will revisit the issue and that no releases will be granted for anyone (except the lien release itself) until that payment is made. The Estate has the funds, so the lack of payment would arise from the settlement not being approved by the Court. That seems very unlikely to me -- particularly because both Queen and EPA are asserting ch. 7 admin claims. If there is not approval, the Trustee would try to craft a solution based on whatever the criticism was of the original settlement. Sound OK?

- - -

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On Thu, Jan 30, 2014 at 8:52 AM, Phillips, Frederick (ENRD) <[Frederick.Phillips@usdoj.gov](mailto:Frederick.Phillips@usdoj.gov)> wrote:

Thanks, Stephen. We should have a draft Settlement Agreement to you by mid-day. I'm still wrestling with how to address the contingency that, for whatever reason, we don't recover the remaining \$115K from the bankruptcy. I'm open to suggestions.

As drafted, the SA contemplates payment by check. I leave it to Ted to say whether it can be otherwise.

Thanks.

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**From:** Feldman, Stephen (Perkins Coie) [mailto:[SFeldman@perkinscoie.com](mailto:SFeldman@perkinscoie.com)]

**Sent:** Thursday, January 30, 2014 11:36 AM

**To:** Phillips, Frederick (ENRD); '[yackulic.ted@epa.gov](mailto:yackulic.ted@epa.gov)'

**Cc:** Justin D. Leonard ([jleonard@ml-llp.com](mailto:jleonard@ml-llp.com))

**Subject:** RE: Absorbent Technologies

Fred and Ted,

Attached is a proposed draft of the Escrow Agreement. Please let me know as soon as possible if you have any questions or suggested changes.

Also, as you will see, I have drafted the Escrow Agreement under the assumption that the \$250,000 will be wired to EPA. Please confirm if that is in fact the case and, if so, please provide the appropriate wiring instructions.

Finally, please note that I just sent the draft Escrow Agreement to Chicago Title. I will let you know ASAP if Chicago Title has any comments or suggested changes.

We await receipt of the proposed settlement agreement.

Thanks,

Stephen

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**From:** Phillips, Frederick (ENRD) [<mailto:Frederick.Phillips@usdoj.gov>]  
**Sent:** Wednesday, January 29, 2014 7:10 PM  
**To:** Feldman, Stephen (Perkins Coie); '[yackulic.ted@epa.gov](mailto:yackulic.ted@epa.gov)'  
**Cc:** '[jleonard@ml-llp.com](mailto:jleonard@ml-llp.com)'  
**Subject:** Re: Absorbent Technologies

Stephen - I don't have that info with me - one of us will get it to you in the morning.

Fred

Sent Using U.S. DOJ/ENRD BES 5 Server

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**From:** Feldman, Stephen (Perkins Coie) [<mailto:SFeldman@perkinscoie.com>]  
**Sent:** Wednesday, January 29, 2014 09:13 PM  
**To:** 'Yackulic, Ted' <[yackulic.ted@epa.gov](mailto:yackulic.ted@epa.gov)>; Phillips, Frederick (ENRD)  
**Cc:** Justin D. Leonard ([jleonard@ml-llp.com](mailto:jleonard@ml-llp.com)) <[jleonard@ml-llp.com](mailto:jleonard@ml-llp.com)>  
**Subject:** RE: Absorbent Technologies

Ted and Fred,

To whom at EPA shall the funds be delivered and by what method (e.g., wiring)? Please advise.

Thanks,

Stephen

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**From:** Yackulic, Ted [<mailto:yackulic.ted@epa.gov>]  
**Sent:** Wednesday, January 29, 2014 2:02 PM  
**To:** Feldman, Stephen (Perkins Coie); [Frederick.Phillips@USDOJ.GOV](mailto:Frederick.Phillips@USDOJ.GOV)  
**Cc:** Justin D. Leonard ([jleonard@ml-llp.com](mailto:jleonard@ml-llp.com))  
**Subject:** RE: Absorbent Technologies

Steve,

Are you working on the escrow agreement?

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**From:** Feldman, Stephen (Perkins Coie) [<mailto:SFeldman@perkinscoie.com>]  
**Sent:** Wednesday, January 29, 2014 1:40 PM  
**To:** [Frederick.Phillips@USDOJ.GOV](mailto:Frederick.Phillips@USDOJ.GOV); Yackulic, Ted  
**Cc:** Justin D. Leonard ([jleonard@ml-llp.com](mailto:jleonard@ml-llp.com))  
**Subject:** RE: Absorbent Technologies

Fred and Ted,

I am pleased to report that we have reached an agreement, with Queen contributing \$135k and \$115k coming from the estate. (I note that I'm not positive on whether the full \$115k will be apportioned to Ferry's Chapter 7 claim or whether some portion of it will be apportioned to the estate's resolution of EPA's Chapter 7 claim. I'd kindly ask Justin to confirm the breakdown.)

Please let me know when we can expect to receive a draft of the settlement agreement, and please also let me know if you need any additional information from us at this point.

Thank you very much for your willingness to work with us in resolving this difficult and unfortunate situation.

Best,

Stephen

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**From:** Phillips, Frederick (ENRD) [<mailto:Frederick.Phillips@usdoj.gov>]  
**Sent:** Wednesday, January 29, 2014 10:05 AM  
**To:** Justin D. Leonard; Feldman, Stephen (Perkins Coie)  
**Cc:** Yackulic, Ted  
**Subject:** RE: Absorbent Technologies

I understand that the deal that I thought we had more or less worked out yesterday may have cratered. My further understanding is that the problem may be that Sean has determined that his client's equitable share of any settlement should be considerably less than Queen Street's share. If I'm correct about all of this, I don't know whether his participation in a call is likely to help us get this resolved. I'm certainly open to including him if the consensus is that that would be useful.

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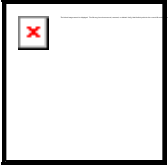
**From:** Justin D. Leonard [<mailto:jleonard@ml-llp.com>]  
**Sent:** Wednesday, January 29, 2014 12:45 PM  
**To:** Feldman, Stephen (Perkins Coie)  
**Cc:** Phillips, Frederick (ENRD); Yackulic, Ted  
**Subject:** Re: Absorbent Technologies

Works for me. Should Shawn Ryan be included?

- - -

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On Wed, Jan 29, 2014 at 9:37 AM, Feldman, Stephen (Perkins Coie) <[SFeldman@perkinscoie.com](mailto:SFeldman@perkinscoie.com)> wrote:

Yes, I am available.

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**From:** Phillips, Frederick (ENRD) [mailto:[Frederick.Phillips@usdoj.gov](mailto:Frederick.Phillips@usdoj.gov)]

**Sent:** Wednesday, January 29, 2014 9:36 AM

**To:** Feldman, Stephen (Perkins Coie); Justin D. Leonard

**Cc:** Yackulic, Ted

**Subject:** Absorbent Technologies

Gentlemen:

Is everyone available for what I expect will be a brief call at 10:30 PT/1:30 ET today?

If not, please reply to all with times that work.

Thanks,

Fred Phillips

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If the message sender is known and the attachment was legitimate, you should contact the sender and request that they rename the file name extension and resend the Email with the renamed attachment. After receiving the revised Email, containing the renamed attachment, you can rename the file extension to its correct name.

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